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16 International of America, Inc.

17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

19 MICHAEL LAVIGNE, *et al.*,
20 Plaintiffs,
21 vs.
22 HERBALIFE LTD., *et al.*,
23 Defendants.

CASE NO. 2:18-cv-07480-JAK (MRWx)

**DECLARATION OF JORGE DE LA
CONCEPCION IN SUPPORT OF
HERBALIFE'S OPPOSITION TO
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

Date: February 10, 2020
Time: 8:30 A.M.
Crtrm.: 10B

Assigned to Hon. John A. Kronstadt

DECLARATION OF JORGE DE LA CONCEPCIÓN

I, Jorge de la Concepción, declare as follows:

1. I have personal knowledge of the facts set forth herein, which are known by me to be true and correct, and if called as a witness, I could and would competently testify thereto.

2. I have worked as an Herbalife distributor since 2012, based in and around Miami, Florida. I have always had an independent contractor relationship with the company, and have never been an Herbalife employee.

3. During my time as an Herbalife distributor, I have been involved in planning and organizing, and have personally attended, dozens of “independent,” distributor-led Herbalife events, such as Success Training Seminars (STSs), in and around the Miami area. These independent events are planned and organized by an organizing committee consisting of local Miami-area Herbalife distributors, not by Herbalife corporate. The local distributor planning committee—not Herbalife corporate—sets the location, timing, and pricing of the STSs; pays for all expenses related to the STSs; selects the speakers for the STSs; and takes primary responsibility for the marketing and advertising for the STSs. Herbalife's role with STSs is generally limited to providing product and some Herbalife banners or other branded material to be displayed at the STSs

4. Herbalife corporate does not prescribe or dictate the content of the STSs. The STSs I have planned and organized have not utilized any pre-prescribed meeting agenda or script published by Herbalife corporate, nor am I aware of any requirement that STSs must follow any company agenda or script. When I have spoken at STS events, I have not followed any script from Herbalife. Speaker presentations at STSs are not submitted to Herbalife for review in advance. Rather, decisions about the content of speaker and training sessions at the STSs are made by the local distributor planning committee.

5. Although the STSs generally attempt to educate attendees about the

1 Herbalife business opportunity and provide training and advice about how to pursue
2 that opportunity, each STS is different in terms of the specific speakers, the
3 individuals who may choose to give testimonials, and the specific training and other
4 content communicated to attendees. When I speak at STSs, I do not give the same
5 scripted speech each time; my presentations have varied based upon the audience,
6 and the subject areas in which we seek to provide training.

7 6. As an Herbalife distributor, I am aware that I, like all Herbalife
8 distributors, am obligated to follow the code of conduct and other rules set forth in
9 the Herbalife Sales & Marketing Plan. I understand generally that these rules
10 prohibit the making of any misrepresentations or misleading statements about the
11 Herbalife business opportunity, and that they prohibit distributors from using certain
12 types of business methods in pursuing the opportunity. I also understand that the
13 rules notify distributors that success within Herbalife is not guaranteed. In my
14 experience, Herbalife has always been serious about requiring compliance with
15 these rules and this code of conduct, and expects distributors to act ethically and
16 follow the rules in pursuing the Herbalife business opportunity.

17 I declare under penalty of perjury under the laws of the United States of
18 America that the foregoing is true and correct.

19 Executed on December 16, 2019.

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21 Jorge de la Concepcion
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